

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS, WESTERN DIVISION**

**IN RE:**

Javier Gumucio  
Fdba Primo Impex Inc.

Debtor(s)

Case No.: 19-81118

Chapter: 7

Hearing Date: 6/26/19

Judge Thomas M. Lynch

**NOTICE OF MOTION**

**TO:** Joseph D. Olsen, Trustee, 1318 E. State Street, Rockford, IL 61104 by electronic notice through ECF  
Javier Gumucio, Debtor(s), 641 Tuscany Drive, Algonquin, IL 60102  
Timothy J Somen, Attorney for Debtor(s), 1620 West Colonial Parkway, Inverness, IL 60067 by electronic notice through ECF

PLEASE TAKE NOTICE that on 6/26/19, at 9:00AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Thomas M. Lynch, Bankruptcy Judge, in the courtroom usually occupied by him/her at the 327 South Church Street, Rockford, Illinois 61101, room 3100, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on June 14, 2019 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on June 14, 2019.

/s/ Brenda Likavec

Attorney for Movant

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
Brenda Ann Likavec ARDC#6330036  
Grant W. Simmons ARDC#6330446  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
**C&A FILE (14-19-05484)**

NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on June 14, 2019 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on June 14, 2019.

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/s/ Brenda Likavec  
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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

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**NOW COMES** HSBC Bank USA, N.A., as Trustee on behalf of ACE Securities Corp. Home Equity Loan Trust and for the registered holders of ACE Securities Corp. Home Equity Loan Trust, Series 2007-HE2, Asset Backed Pass-Through Certificates (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 641 Tuscany Drive, Algonquin, IL 60102;
3. This security interest arose from a Note and Mortgage, executed on 8/9/2006, in the amount of \$384,800.00;
4. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 5/10/19;
5. Movant is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:
  - a. The Debtor is in default in the performance of the terms and conditions of said Note and Mortgage;
  - b. As of 06/07/2019, the Debtor(s) is/are contractually due for the 10/1/18 payment and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;

- c. As of 06/07/2019, the estimated default through and including 6/1/19 is \$21,399.30. Any payments received after this date may not be reflected in this default;
- d. As of 06/07/2019, the estimated payoff amount is \$360,479.70. The estimated fair market value of the property is \$395,000.00, per Debtor's Schedules. That to the best of Movant's knowledge, no non-exempt equity exists in the subject property or any equity that does exist is so insubstantial as to be of little or no benefit or burdensome to the estate;
- e. The above is especially true when considering the cost of selling the property, as outlined below:

Fair Market Value: \$395,000.00

Less Lien Payoff and Cost of Sale:

Estimated Payoff: \$360,479.70

Payoff of Other Liens: \$40,063.00

Broker's Commission (6% of FMV): \$23,700.00

Other Closing Costs (estimated): \$2,000.00

Net Proceeds of Sale: (\$31,242.70)

(assuming no capital gains need to be paid)

(Please note: From these proceeds, Debtor(s) would be entitled to be paid \$15,000.00 representing the homestead exemption)

6. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$750.00	for Preparation of Notice and Motion for Relief
	from the Automatic Stay, and prosecution of same
\$181.00	for Court filing fee

7. Ocwen Loan Servicing, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for HSBC Bank USA, N.A., as Trustee on behalf of ACE Securities Corp. Home Equity Loan Trust and for the registered holders of ACE Securities Corp. Home Equity Loan Trust, Series 2007-HE2, Asset Backed Pass-Through Certificates (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of HSBC Bank USA, N.A., as Trustee on behalf of ACE Securities Corp. Home Equity Loan Trust and for the registered holders of ACE Securities Corp. Home Equity Loan Trust, Series 2007-HE2, Asset Backed Pass-Through Certificates (the noteholder).

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HSBC Bank USA, N.A., as Trustee on behalf of ACE Securities Corp. Home Equity Loan Trust and for the registered holders of ACE Securities Corp. Home Equity Loan Trust, Series 2007-HE2, Asset Backed Pass-Through Certificates (the noteholder) has the right to foreclose because: Noteholder is the owner of the note. Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed;

8. The Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order.

**WHEREFORE**, HSBC Bank USA, N.A., as Trustee on behalf of ACE Securities Corp. Home Equity Loan Trust and for the registered holders of ACE Securities Corp. Home Equity Loan Trust, Series 2007-HE2, Asset Backed Pass-Through Certificates prays this Court enter an Order pursuant to 11 U.S.C. §362(d) modifying the automatic stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this June 14, 2019.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Brenda Likavec

Berton J. Maley ARDC#6209399  
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**MORTGAGE**

PHH Mortgage Services  
1 Mortgage Way  
Mt. Laurel NJ 08054

Tel 877-688-7116  
Fax 856-917-8003

**\*\*IMPORTANT NOTICE\*\***

Upon written request, PHH Mortgage Services will provide the following information regarding the subject loan:

- \* A copy of the payment history through the date the account was last less than 60 days past due.
- \* A copy of the note.
- \* The name of the investor that holds the loan.

Requests for this information/documentation can be sent to us at the following address:

PHH Mortgage Services  
PO Box 5469  
Mt. Laurel, NJ 08054

This notice is being provided for informational and compliance purposes only. It is not an attempt to collect a debt.